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COUNCIL OF CHIEF STATE SCHOOL OFFICERS

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EX PARTE OR LATE FILED

January 7, 2000

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RECEIVED

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

EX PARTE PRESENTATION

SUBJECT: PROPOSED FIRST QUARTER 2000 UNIVERSAL SERVICE CONTRIBUTION
FACTOR (CC DOCKET NO. 96-45)

In the Public Notice of December 10, 1999, the Common Carrier Bureau announced a proposed Universal Service Contribution Factor for the first quarter of 2000. In establishing the contribution factor, the order takes particular note of directing the USAC "to apply one-quarter of the estimated unused balance" of contributions collected for year one to reduce the collection requirement for the Schools and Libraries program in the first quarter of 2000. The order states that these unused funds are being applied to reductions rather than being used to expand the available funding in year two beyond \$2.25 billion, because of the Twelfth Order on Reconsideration, adopted on May 27, 1999, a cap on the disbursements of the Schools and Libraries program at \$2.25 billion for the second year.

On behalf of the state commissioners and superintendents of education and state technology representatives who are involved in the implementation of this program, we offer the following comments about the decision:

1. We commend the limitation of this decision just to the first quarter of the year 2000 with a reduction of the contributions applicable to only to one quarter of the estimated \$229 million of unused funds from the first year. The limitation of the decision to the first quarter enables the Common Carrier Bureau and the FCC to work with more up-to-date estimates on program needs before reaching a conclusion about the contribution needs for later quarters in 2000.

2. We are pleased the establishment of a cap at \$2.25 billion for the schools and libraries discounts in year two appears to have been sufficient to accommodate all eligible applications filed within the "window period." The decision by the Common Carrier Bureau to continue planning for the contributions related to use of the full cap of \$2.25 billion is sound.

3. We note with deep disappointment that there is unused funding of \$229 million for the first year of the program. This residual amount is in part the result of using "cut points" for the eligibility of applicants with percentage poverty rates contributing to a discount rate below 70 percent. In the first year, many

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applicants were never considered for the discounts for internal connections. It is clear that much, and perhaps all, of the \$229 million would have been used for eligible and vitally needed projects if applications from the schools and libraries with discount rates below 69 percent had been approved. We realize there were complications in the start-up on this program and in the making of estimates for the actual demand; however, \$229 million of funds for otherwise eligible applications is a huge loss.

4. Although the decision on December 10, 1999 does not deal with the issue of potential unused funding from the second year, the FCC and Common Carrier Bureau must be anticipating amounts of unused funding. We understand that it appears all eligible applications filed within the application "window" for year two should be funded within the cap established for the second year, but we note there are applications, which would otherwise be eligible, that will be rejected because they were not filed during the period of the "window." The use of the "window" is causing this program to be less than "universal."

As the FCC considers the application of any unused funds for the second year, we urge that such funds be used to support applications not filed within the second year window. Second, we urge the period of time for completing of approved projects for internal connections under second year funding be extended from June 30, 2000 to September 30, 2000. The experience of year one suggests that many districts cannot initiate internal connections projects during the school day and school year.

The combination of these two actions will move this program toward the objective of truly providing "universal services."

In a separate letter, we will deal at greater length with the issue of extending the period of implementation on internal connections from June 30, 2000 to September 30, 2000. We will provide evidence to the effect that schools, school districts, states and libraries across the country are having extensive difficulties in completing the work of internal connections because of late notification by the Schools and Libraries Division, Universal Service Administrative Company as to their approval. Schools cannot have the disruption of substantial construction or renovation work during the regular school year because of concerns for the safety of students and teachers. Schools rely heavily on summer breaks, especially projects involving installation of classroom wiring. Applicants missed the summer of 1999 for such projects in their year two applications because of late approvals by SLD. In order to implement their projects, schools must have time during the summer of 2000 to complete this work. The Commission should consider the establishment of September 30th as a perennial date for completing the installation of all internal connections.

5. Finally, we urge the FCC to complete its estimates on the total program demand for schools and libraries universal services as early as possible in 2000 (hopefully, in February) so the expected resource needs are established and the determination of contributions can be made as early as possible in 2000. This will provide USAC and the SLD and all potential applicants as to the availability of resource for scheduling and implementing their projects for year three of the program. Moreover, an early decision on disbursement requirements will enable actions on local and state budgets related to expectations for universal service discounts.

With two years of experience now established, the processes of application, of making estimates on program need, and determining the calculation of contributions must reach a point of greater timeliness and accuracy. We urge the FCC take every action possible to advance this program as a truly "universal service" program as rapidly as possible. With more accurate estimates of need, the FCC would not have to establish specific caps nor use the cumbersome process of setting "windows" which have been necessary to enable

fairness in application processing because of the concern there might not be sufficient contributions to cover all eligible applications. The more rapidly the FCC makes the program "universal," the faster the FCC can lower administrative processing costs because there will not be a need for creating windows and other time consuming and labor consuming processes of application. Eventually, applications should be on a rolling basis through the year; this would smooth out the administrative costs and would provide for a much more effective timetable for the 30,000+ applicants to proceed with their projects. This is the direction in which the FCC should be headed.

In year three of the program, we realize the FCC will, once again, set a cap on the contributions and anticipated revenues to assure an unanticipated volume of applications does not undermine fairness in awards. We urge the cap be set to accommodate all anticipated eligible applications and that, should there be unused funds from year two, such funds be used for the funding of applications which are otherwise eligible but were not submitted within the "window" and that can be used, if necessary, to assure all eligible applications are funded if the total value of applications exceeds the initial FCC cap for year three.

We appreciate the actions of the FCC over the past three years in advancing this extremely important service to elementary and secondary students throughout the nation. This program is making an incredibly important contribution to advance access to telecommunications and Internet services in support of learning and reducing the "digital gap." We join with the FCC in the desire to take every step possible so the discounting process is truly "universal" as the Congress intended in Section 254 of the Telecommunications Act of 1996. Thank you for consideration of our statements.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Ambach", with a long horizontal line extending from the left side of the signature.

Gordon M. Ambach
Executive Director

Copies of the foregoing letter have been sent via messenger and/or first-class mail to the parties below:

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